

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Implementation of Video Description
of Video Programming)

MM Docket No. 99-339

**COMMENTS OF THE LEAGUE OF UNITED LATIN AMERICAN CITIZENS
REGARDING PETITIONS FOR RECONSIDERATION IN THE VIDEO DESCRIPTION
PROCEEDING**

The League of United Latin American Citizens (LULAC) submits these comments related to the Petitions for Reconsideration filed in response to the Commission's Video Description Order.¹ LULAC participated during the Reply Comment round of this proceeding in order to address issues related to the use of the Secondary Audio Program ("SAP") for Spanish language audio.²

LULAC is the largest and oldest Hispanic organization in the United States. LULAC advances the economic condition, educational attainment, political influence, health and civil rights of the Hispanic population of the United States. LULAC works through community-based programs operating at more than 700 LULAC councils nationwide. LULAC is filing these comments because, to a certain extent, the

¹ Implementation of Video Description of Video Programming, Report and Order, MM Docket No. 99-939, FCC 00-258, 65 Fed. Reg. 54805 (Sept. 11, 2000) (hereinafter Video Description Order).

² See LULAC Comments at 1-2.

No. of Copies rec'd 0111
4-11-2000

Commission's explicit support for Spanish language audio services offered as part of video program networks was not reflected in the final video description rules.

LULAC is deeply concerned about one aspect of the Commission's video description rules. As currently drafted, the rules will deprive the large and growing Spanish-speaking community in the United States of a valuable and popular resource – the Spanish language audio track now carried on the SAP (Secondary Audio Programming) channel of a popular, premium program service -- HBO. The SAP, which would be used for video description under the Commission's rules, cannot be used simultaneously for Spanish language audio. Because LULAC believes that those networks, such as HBO, that are providing substantial amounts of Spanish language programming should not be forced to eliminate or disrupt it, LULAC endorses HBO's Petition for Clarification or Reconsideration (HBO Reconsideration Petition). The relief requested by HBO is entirely appropriate and consistent with the Commission's goal of increasing accessibility to video programming for all Americans.

I. Spanish Language Audio is Vital to the Public Interest.

A. There is a Large Demand for Spanish Language Audio.

The demand for Spanish language audio is real. As LULAC pointed out in its Reply Comments, over 17 million people in the United States speak Spanish at home.³ Census projections show that the U.S. Hispanic population will continue to increase, growing from 11% of the population today to over 17% by 2020.⁴ Today, many broadcast stations, cable systems, broadcast networks, and cable programming networks provide some Spanish language audio, and some networks have made a substantial commitment to the Spanish-speaking audience. For example, more than

³ 1990 U.S. Census, Table 4: "Languages Spoken at Home by Persons 5 Years and Over."

⁴ U.S. Census Bureau, U.S. Dept. of Comm., Table NP-T5, Projections of the Resident Population by Race, Hispanic Origin, and Nativity (2000), available at <http://www.census.gov/population/www/projections/natsum.html>.

93% of the HBO prime time program schedule is accessible to Spanish-speaking viewers through the use of the SAP channel.⁵

B. Spanish Language Audio Serves Important Cultural Needs.

This large demand for Spanish language audio is driven by the cultural needs of the Spanish-speaking community. The Spanish language audio track of programming networks enables the Hispanic community to receive important educational and entertainment benefits. While many people who speak Spanish in the home also speak English, they may prefer to watch television with Spanish language audio for a variety of reasons. As we noted in our Reply Comments, Spanish language audio may be preferred if the television topic is technical or medical because of its special vocabulary. Spanish language audio can provide a better understanding of the nuances of plot or comedy, and gives a different perspective in news coverage. Sometimes Spanish language audio is more consistent with the flavor of the program itself, such as with soccer. Stations and programming networks that provide Spanish language audio tracks are offering what their audiences want, and it would be a serious mistake to deprive this substantial television-watching audience of the important feature of Spanish language audio.

C. Mandated Video Description Would Deprive the Large Spanish-Speaking Community of a Valuable and Popular Resource.

Mandating video description on networks that have a large amount of prime time programming in Spanish would do serious harm to an existing service that is very popular with the Hispanic community. Just like other viewers, Spanish-speaking individuals are drawn to networks that serve their needs. When subscribing to networks such as HBO, Spanish-speaking viewers expect, especially during prime time, that

⁵ HBO Reconsideration Petition at 5. The Commission recognized that other networks, such as the Movie Channel, Showtime and Encore, also provide substantial amounts of programming with Spanish language audio. Video Description Order, ¶ 34 n.103.

almost all of the programming will be accessible to them. To upset these expectations by randomly removing Spanish language audio in favor of video description would make the programs service much less useful and attractive to the huge Spanish-speaking audience.

II. The Commission Intended to Protect Spanish Language Audio and Should Revise Its Rules to Reflect Its Intent.

In the Video Description Order, the Commission acknowledged that certain networks, such as HBO, currently provide extensive Spanish language audio using the SAP channel.⁶ The Commission vowed not to impact this important service concluding that disruption of the Spanish language services would be avoided because those networks with substantial Spanish language audio would not be covered by the new rules.⁷

Despite this intent, the rules do include HBO within their scope.⁸ The Commission thus inadvertently acted to expand the scope of the rules instead of implementing its stated desire “to limit” the networks covered by the rules.⁹

This inconsistency between the Commission’s intent and the Commission’s action will affect Spanish-speaking viewers adversely and it should be corrected. The HBO Reconsideration Petition sets forth several options for the Commission to pursue to remedy its apparent errors.¹⁰ LULAC urges adoption of, at least, one of these

⁶ Video Description Order, ¶ 34 n.103 (noting that these networks provide over half of their programming in Spanish language audio).

⁷ Video Description Order, ¶ 34.

⁸ HBO Reconsideration Petition at 2-4.

⁹ Video Description Order, ¶26.

¹⁰ HBO Reconsideration Petition at 6-7.

proposed means of addressing the situation. LULAC also asks that the Commission allow for the greatest flexibility for programmers so that existing uses of the SAP channel for Spanish language audio will not be negatively affected by the introduction of other legitimate uses of the SAP channel. In this way, video programming can be made more accessible to all Americans, irrespective of hearing disabilities, visual disabilities, or language barriers.¹¹

III. Conclusion

LULAC urges the Commission not to deprive the large Spanish-speaking community of a resource they enjoy and use: Spanish language audio programming from networks that have made a strong commitment to serve the Hispanic community. We urge the FCC to reconsider its decision in the Video Description Order and to clarify or revise its rules in accordance with the HBO Reconsideration Petition.

Respectfully submitted,



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November 13, 2000

¹¹ Video Description Order, ¶¶ 1-4 (paraphrasing the intent of the Order).

CERTIFICATE OF SERVICE

The undersigned, Maria Sklar, hereby certifies that this 13th day of November, 2000, I have caused a true and correct copy of the foregoing Comments of the League of Latin American Citizens to be served via U.S. first class mail, postage prepaid, on the following:

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